

**REMARKS**

Claims 1 and 10-28 are pending in the present application. By this Amendment, claim 1 has been amended and claims 10-28 are added. Claims 2-9 have been cancelled without prejudice or disclaimer. No new matter has been added by this Amendment or entry of these new claims. New claims 10-28 are intended, in part, to embrace the allowable subject matter of withdrawn claim 6. It is respectfully submitted that claims 1 and 10-28 are in condition for allowance in view of the amendments and remarks presented herein.

The Office Action rejects claims 1 and 7 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Claim 7 is also rejected under 35 U.S.C. §112, second paragraph, because there is insufficient antecedent basis for a limitation in the claim. Claims 1-5, 7 and 8 are rejected under 35 U.S.C. §102(b) as being anticipated by Oliver et al. (U.S. Patent No. 5,397,353). Claim 6 has been objected to as being based on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitation of the base claim and any intervening claims. These rejections are respectfully traversed.

**Claim Rejections - 35 U.S.C. § 112, second paragraph**

Claims 1 and 7 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Claim 7 is also rejected under 35 U.S.C. §112, second paragraph, because there is insufficient antecedent basis for a limitation in the claim. By this Amendment, claim 1 is amended and claim 7 is withdrawn. Thus, withdrawal of the rejection of claim 1 under 35 U.S.C. §112, second paragraph, is respectfully requested.

**Claim Rejections - 35 U.S.C. § 102(b)**

Independent claim 1 and dependent claims 2-9 are rejected under 35 U.S.C. §102(b) as being anticipated by Oliver et al. (U.S. Patent No. 5,397,353). Claims 2-9 depend from independent claim 1.

The Office Action asserts that Oliver et al. "discloses a collagenous tissue preparation suitable for homotransplantations or heterotransplantation." The Office Action also asserts "the preparation is a non-resorbable, non-antigenic collagenous material which retains the natural structure and original architecture of the natural tissue. The material is substantially free of non-fibrous tissue proteins, glycoproteins, cellular elements and lipids. The tissue preparation is recolonized by host cells and revascularized after implantation into the host. See abstract. Freshly cut dermis is placed in buffer or saline solution to remove the acetone See cols. 4-5." The Office Action additionally asserts that Example 1 of Oliver "discloses small pieces (0.2 times 0.2 cm) of split-thickness rat skin were explanted onto pieces of the new material measuring 1 times 1 cm, or when dispersed epidermal cells were placed onto the new material, complete coverage with layered epithelium occurred within 8-9 days by epidermal cell migration and proliferation from the explants. The new collagenous sheet material will be suitable for use in human and veterinary surgery for the treatment of hernias, skin wounds including burns, correction of facial deformities, tendon damage, in various arthroplastics and generally in plastic and reconstructive surgery."

Oliver et al. discloses a collagenous tissue preparation and a methodology for preparing the same. Oliver et al., however, does not disclose "an implant composition comprising a biocompatible carrier medium having dispersed therein solid or semi-solid particles of collagenous material which are derived from a natural tissue material; wherein said collagenous material displays the original architecture and molecular structure of the natural tissue material from which it is derived; wherein said collagenous material is substantially free of non-fibrous tissue proteins, glycoproteins, cellular elements, lipids or lipid residues; wherein said collagenous material is non-cytotoxic; and wherein said implant composition is capable of use as a component of a paste, gel or an injectable solution" as recited in independent claim 1. Oliver et al. does not specifically disclose an implant composition capable of use as part of an application comprising a paste, gel or an injectable solution. Oliver et al. also does not disclose a method of preparation or use of such a composition. Accordingly, Oliver et al. does not anticipate independent claim 1. Thus, withdrawal of the rejection of independent claim 1 under 35 U.S.C. §102(b) is respectfully requested.

intended  
use

**Conclusion**

For the foregoing reasons, it is respectfully requested that the rejections set forth in the Office Action be withdrawn. It is respectfully submitted that claims 1 and 10-28 are allowable over the art of record, and that the application is in condition for allowance. Favorable reconsideration of this application and a timely Notice of Allowance are therefore respectfully requested.

The Examiner is invited to contact Applicants' undersigned attorneys by telephone to discuss any matters in order to expedite the progress of the present application toward allowance.

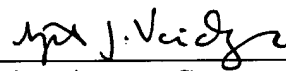
If there are any other fees due in connection with the filing that are not enclosed herewith, please charge any fees or credit any overpayment to our Deposit Account No. 50-1349.

Respectfully submitted,

Date: June 26, 2003

**Hogan & Hartson L.L.P.**  
555 13<sup>th</sup> Street, N.W.  
Washington, D.C. 20004-1109  
Telephone: (202) 637-5703  
Facsimile: (202) 637-5910  
**Customer No. 2463**

By:

  
\_\_\_\_\_  
Celine Jimenez Crowson  
Registration No. 40,357

Ajit J. Vaidya  
Registration No. 43,214

William T. Slaven IV  
Registration No. 52,228